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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,330	09/25/2001	H. W. Holland-Letz	213150	1181

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EXAMINER

WILLIAMS, MARK A

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 10/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application N .

Applicant(s)

09/963,330

HOLLAND-LETZ, H. W.

Examiner

Art Unit

Mark A. Williams

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

## A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 2-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-79 is/are rejected.
- 7) ☒ Claim(s) 2-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/25/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## **DETAILED ACTION**

### ***Priority***

1. The drawings in this application are objected to by the Draftsperson as informal. Any drawing corrections requested, but not made in the prior application should be repeated in this application if such changes are still desired. If the drawings were changed and approved during the prosecution of the prior application, a petition may be filed under 37 CFR 1.182 requesting the transfer of such drawings, provided the parent application has been abandoned. However, a copy of the drawings as originally filed must be included in the 37 CFR 1.60 application papers to indicate the original content.

2. Results of the international search report of PCT DE01/00276 with appropriate translation should be provided, including the art of record of the report.

### ***Specification***

3. The disclosure is objected to because of the following informalities: claims should not be referred to in the specification since they may change during prosecution (page 2).

Appropriate correction is required.

***Drawings***

4. The drawings are objected to because all prior art drawings should be labeled as such (figures 1, 2, etc...). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Objections***

5. Claims 2-38 are objected to because of the following informalities: they depend from a canceled claim 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

6. Claims 39-79 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 2, it is suggested that "used comprising" be changed to --used, said handle comprising--.

In claim 1, line 11, it is unclear if the referred to handle of the claimed invention.

In claim 1, line 15, there is a lack of antecedent basis for "its circumference".

In claim 1, the phrase "the distance of which from.... to the distal and proximal part" is not fully understood.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 39-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Kopelman et al., US Patent 5,829,099. (Note that no patentable weight has been given in regard to all the subject matter referenced by "intended for", since intended use is not patentable subject matter.) As seen in the figures, center part 111 is between distal and proximate parts 110, 112, as claimed. This center part engages a users palm, as claimed. In regard to the claimed geometric arrangement of surfaces, including longitudinal axis, imaginary plane, maximum central point, minimum point, generatrix, convex progression, etc., none of these limitations are novel and are provided by Kopelman. In regard to the claimed percentages and

specific measurements of length and curvature, it is noted that these limitation are met by a combination of the specific size that Kopelman has the handle built, which can vary, and the size of a user's hand. Even if a standardize size handle was used, there would be individuals (assigned group of hands) having hands that would meet the claimed limitations during use of the handle of Kopelman.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark A. Williams whose telephone number is (703) 305-3438. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (703) 308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-3736 for regular communications and (703) 746-3736 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

Mark Williams

9/29/02



**Anthony Knight**  
Supervisory Patent Examiner  
Group 3600